



14 WALL STREET, SUITE 5H  
NEW YORK, NY 10005  
DIRECT DIAL: (212) 589-7520  
MAIN: (212) 839-7000  
FACSIMILE: (212) 466-0514  
WWW.HILLBETTS.COM

December 15, 2021

Via ECF

Honorable John P Cronan  
United States District Court Judge  
Southern District of New York  
United States Courthouse  
500 Pearl Street Rm. 1320  
New York, New York 10007

The parties shall appear for a telephone conference on December 21, 2021 at 10:30 a.m. to discuss Defendants' request and to discuss the status of discovery in this case. At the scheduled time, the parties should call (866) 434-5269, access code 9176261.

SO ORDERED.

Dated: December 15, 2021  
New York, New York

JOHN P. CRONAN  
United States District Judge

Re: Marianela Susana v. NY Waterway Tours LLC et al.  
1:20-cv-00455  
HBN File No. 18.0049

Dear Judge Cronan,

We represent the Defendants and write to you to advise the Court of the status of Plaintiff's IME. As you are aware, on November 17, 2021, the Court extended the time for Defendants to take the deposition of Bridgette Escolasticos (Plaintiff's Daughter) and ordered Plaintiff to submit to an IME by December 15, 2021. Defendants then timely served a subpoena on Ms. Escolasticos for her deposition testimony, which is scheduled take place on December 15, 2021, and noticed Plaintiff's IME for December 6, 2021. The IME was scheduled to be performed by Dr. Raz Winiarsky, MD.

On December 6, Plaintiff appeared at Dr. Winiarsky's office. Upon the in-take, prior to the examination itself, Dr. Winiarsky observed Plaintiff to be limping and in pain. The Doctor then examined her leg and it was his impression that Plaintiff was likely suffering from a Deep Vein Thrombosis ("DVT"). Dr. Winiarsky, exercising his professional due diligence and worried about

Hon. Judge John P. Cronan  
United States District Court Judge  
Southern District of New York  
December 15, 2021

pg. 2 of 2

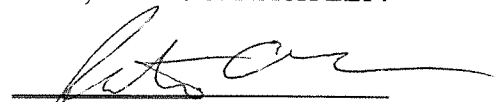
Plaintiff's short term health, suspended the examination and told Plaintiff go to a local Emergency Room.

In order for the Defendants to conduct an accurate IME, Plaintiff cannot be exhibiting pain from a DVT. The pain associated with a DVT will skew any examination of Plaintiff and prejudice Defendant as Plaintiff's DVT is not a condition related to the underlying incident. Moreover, Defendants' examining Doctor, Dr. Winiarsky, will not now examine Plaintiff without clearance from her treating doctor.

Currently, the undersigned does not know when Plaintiff will recover from her symptoms and be able to complete her examination. Counsel for Plaintiff has contacted his client regarding the IME and her current condition but has not yet received a response.

The Defendants respectfully request that all current deadlines be stayed and Plaintiff be given at least thirty days to recover prior to any further examination. Defendants propose that Counsel for Plaintiff advise the Court by January 14, 2021 on the status of Plaintiff's condition and state whether her treating Doctor has cleared her to appear at an IME. If Plaintiff has been cleared by her treating doctor Defendants have rescheduled her IME for January 31<sup>st</sup>.

Very Truly Yours,  
HILL, BETTS & NASH LLP.

  
\_\_\_\_\_  
Patrick O'Connor, Esq.

cc: All Counsel via ECF.